

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2017-2598203
Office of Consumer Advocate	:	C-2017-2614985
Office of Small Business Advocate	:	C-2017-2615248
Donna Hess	:	C-2017-2614724
Vincent Collier III	:	C-2017-2620842
Sandra Shaub	:	C-2017-2622123
Joseph Kramer	:	C-2017-2623109
	:	
v.	:	
	:	
Columbia Water Company	:	

RECOMMENDED DECISION

Before
Joel H. Cheskis
Deputy Chief Administrative Law Judge

and

Andrew M. Calvelli
Administrative Law Judge

INTRODUCTION

This Decision recommends that the Joint Petition for Settlement (Joint Petition or Settlement) be approved in its entirety without modification because it is in the public interest. In general, in lieu of the overall revenue increase of \$923,668, or 17.8% over present revenues, sought by Columbia Water Company, the Company will receive an increase of \$635,000, or 12.4% over present revenues. Under the terms of the Settlement, the average Columbia Rate District customer's monthly bill will increase from \$36.66 to \$39.81, while the average Marietta Rate District customer's monthly bill will increase from \$23.33 to \$28.14 per month. This Decision finds that the Settlement complies with the relevant sections of the Public Utility Code

regarding rate filings and rate increases and is consistent with Commission regulations promoting settlements.

HISTORY OF THE PROCEEDING

On June 27, 2017, Columbia Water Company (Columbia Water) filed Supplement No. 86 To Tariff - Water Pa. P.U.C. No. 7 to become effective August 29, 2017. The subject tariff would increase Columbia Water's total annual operating revenues by approximately \$923,668, or 17.80%, above the level of pro forma revenues for the future test year ending December 31, 2017. The subject tariff also consolidates Columbia Water's two divisions, the Columbia and Marietta Divisions, into one division, and makes other changes to existing rules and regulations.

On July 19, 2017, the Office of Consumer Advocate (OCA) filed a Formal Complaint against the filing at Docket No. C-2017-2614985 and the Office of Small Business Advocate (OSBA) filed a Formal Complaint at Docket No. C-2017-2615248. Other formal complaints were also filed by Columbia customers at Docket Nos. C-2017-2614724, C-2017-2620842, C-2017-2622123 and C-2017-2623109. The Commission's Bureau of Investigation and Enforcement (I&E) filed its Notice of Intervention in this proceeding on July 17, 2017.

Pursuant to the Public Utility Code, 66 Pa. C.S. § 1308(d), the tariff filings were suspended by Commission Order dated August 3, 2017, until March 29, 2018, unless permitted by Commission Order to become effective at an earlier date. In the Order, the Commission concluded that investigation and analysis of the proposed tariff filings and the supporting data indicated that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to public interest. Accordingly, the Commission ordered that this matter be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary in order to issue a Recommended Decision to the Commission, giving consideration to the reasonableness of Columbia's existing rates, rules, and regulations.

By Notice dated August 4, 2017, the Office of Administrative Law Judge scheduled an Initial Prehearing Conference for Friday, August 25, 2017, at 2:00 p.m. in Hearing Room 2 of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 before Administrative Law Judges Joel H. Cheskis and Andrew M. Calvelli as the Presiding Officers in this proceeding.

The Prehearing Conference was held as scheduled, with the OCA, OSBA, I&E and Columbia Water appearing through their legal counsel. Columbia Water's rate filing and the associated complaints were formally consolidated for purposes of hearing and decision and a procedural schedule was agreed upon as memorialized in a Scheduling Order served by the Presiding Officers on August 28, 2017, with evidentiary hearings scheduled for November 3, 2017 and November 6, 2017.

Two public input hearings were held in Marietta, Pennsylvania on September 27, 2017 at 2:00 p.m. and 6:00 p.m. for the purpose of receiving input from the Company's customers. In the first hearing, five customers provided testimony on the record. In the second hearing, one customer provided testimony on the record.

Pursuant to the litigation schedule, the Company provided direct testimony on September 8, 2017; I&E, OCA and OSBA provided direct testimony on October 6, 2017; the Company and OSBA provided rebuttal testimony on October 20, 2017; and I&E, OCA and OSBA provided surrebuttal testimony on October 30, 2017. In addition, the Company provided an oral rejoinder outline on November 1, 2017.

In the week prior to the scheduled hearing dates, the parties had various discussions concerning possible settlement of the case. Given that the parties were actively attempting to settle the case, on November 2, 2017 the Presiding Officers conducted a phone conference and advised the parties that the hearing would begin at 1:00 p.m. on November 3, 2017 instead of the originally scheduled 10:00 a.m. time slot to give the parties additional time to discuss settlement.

On November 3, 2017, the parties held a second phone conference with the Presiding Officers and advised that a full settlement of all issues in the case had been reached. The parties also advised that the evidentiary hearings would only be necessary to admit pre-served testimony into the record via stipulation.

The evidentiary hearing was held on November 3, 2017. The following counsel appeared at the hearing: Thomas Sniscak, Esquire, Christopher Arfaa, Esquire and William Lehman, Esquire on behalf of Columbia Water; Phillip Demanchick, Esquire, Kristine Marsilio, Esquire, Christine Maloni-Hoover, Esquire and Harrison Breitman, Esquire on behalf of OCA; Scott Granger, Esquire and Erika McLain, Esquire on behalf of I&E; and Daniel Asmus, Esquire on behalf of OSBA. David Lewis, Gary Shambaugh and Dylan D'Ascendis provided oral rejoinder testimony on behalf of the Company and the parties waived cross-examination. Following the witness presentations, pre-served testimony was admitted into the record with accompanying verifications without objection, as follows:¹

COLUMBIA

- Direct Testimony of David T. Lewis (CWC Statement No. 1)
- Direct Testimony of Gary D. Shambaugh (CWC Statement No. 2)
- Direct Testimony of Dylan W. D'Ascendis (CWC Statement No. 3)
- Rebuttal Testimony of David T. Lewis (CWC Statement No. 1-R)
- Rebuttal Testimony of Gary D. Shambaugh (CWC Statement No. 2-R)
- Rebuttal Testimony of Dylan W. D'Ascendis (CWC Statement No. 3-R)

OCA

- Direct Testimony of Ashley E. Everette (OCA Statement No. 1)
- Direct Testimony of David Parcell (OCA Statement No. 2)
- Direct Testimony of Terry Fought (OCA Statement No. 3)
- Surrebuttal Testimony of Ashley E. Everette (OCA Statement No. 1-S)
- Surrebuttal Testimony of David Parcell (OCA Statement No. 2-S)
- Surrebuttal Testimony of Terry Fought (OCA Statement No. 3-S)

I&E

- Direct Testimony of Brenton Grab (I&E Statement No. 1)
- Direct Testimony of Rachel Maurer (I&E Statement No. 2)
- Direct Testimony of Jeremy Hubert (I&E Statement No. 3)

¹ On November 2, 2017, the Company filed a motion to strike portions of the surrebuttal testimony of OCA witness Fought. That motion was subsequently withdrawn during the evidentiary hearing held on November 3, 2017.

- Surrebuttal Testimony of Brenton Grab (I&E Statement No. 1-SR)
- Surrebuttal Testimony of Rachel Maurer (I&E Statement No. 2-SR)
- Surrebuttal Testimony of Jeremy Hubert (I&E Statement No. 3-SR)

OSBA

- Direct Testimony of Brian Kalcic (OSBA Statement No. 1)
- Rebuttal Testimony of Brian Kalcic (OSBA Statement No. 1-R)
- Surrebuttal Testimony of Brian Kalcic (OSBA Statement No. 1-S)

In addition to the witness presentations and the admission of pre-served testimony into the record, the parties were reminded that the settlement materials were due to be submitted by December 8, 2017, the date originally set for the submission of reply briefs. Pursuant to a request from the parties via a phone conference on December 7, 2017, the deadline for submitting the settlement materials was extended until December 12, 2017.

On December 12, 2017, the parties submitted their settlement materials and the record was closed. The Settlement was signed by Columbia Water, I&E, OCA and OSBA. The consumer complainants were sent a copy of the Settlement and given an opportunity to object to it by December 22, 2017 or be deemed to not oppose the Settlement. No objections were received. The Settlement materials include the Joint Petition, accompanying attachments, proposed Revised Tariffs and Statements in Support of the Settlement from each party.

For the reasons set forth below, the Settlement will be recommended for approval in its entirety without modification.

DISCUSSION

1) Description of the Company

Columbia Water Company is a jurisdictional Water Distribution Company subject to regulation by the Pennsylvania Public Utility Commission. Columbia has two rate districts, the Marietta Rate District and the Columbia Rate District. CWC Statement No. 1 at 2. The Marietta Rate District covers water service in Marietta Borough and East Donegal Township in Lancaster

County and in Hellam Township in York County. Id. The Columbia Rate District covers water service in the following Lancaster County locations – Columbia Borough, Mountville Borough, West Hempfield Township, East Donegal Township and Manor Township. Id. As of June 30, 2017, Columbia served a total of 10,288 customers. Id. at 3. Columbia’s customers have an average daily water demand of 2.3 million gallons, with peak daily demand reaching 2.9 million gallons. Id. at 5.

2) Legal Standard

The Commission applies certain principles in deciding any general rate increase case brought pursuant to 66 Pa. C.S. § 1308(d). A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. Pennsylvania Gas and Water Co. v. Pa. Pub. Util. Comm'n, 341 A.2d 239 (Pa. Cmwlth. 1975). In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia, 262 U.S. 679 (1923) (Bluefield) and Federal Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591 (1944). In Bluefield the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-3.

The public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request pursuant to 66 Pa. C.S. § 1308(d). The statute at 66 Pa. C.S. § 315(a) sets forth the standard to be met by the public utility:

Reasonableness of rates. -In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

In a general rate increase proceeding, the burden of proof does not shift to parties challenging a requested rate increase. The utility has the burden of establishing the justness and reasonableness of every component of its rate request throughout the rate proceeding. Other parties to the proceeding do not have the burden of proof to justify an adjustment to the public utility's filing. In this regard, the Pennsylvania Supreme Court in Berner v. Pa. Pub. Util. Comm'n, 116 A.2d 738, 744 (Pa. 1955) stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations, and that is the burden which the utility patently failed to carry.

However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims it has made in its filing that no other party has questioned. In Allegheny Center Assocs. v. Pa. Pub. Util. Comm'n, 570 A.2d 149 (Pa. Cmwlth. 1990), the Pennsylvania Commonwealth Court stated: “While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.”

In analyzing a proposed general rate increase, the Commission determines a rate of return to be applied to a rate base measured by the aggregate value of all the utility's property used and useful in the public service. In determining a proper rate of return, the Commission

calculates the utility's capital structure and the cost of the different types of capital during the period in issue. The Commission has wide discretion, because of its administrative expertise, in determining the cost of capital. Equitable Gas Co. v. Pa. Pub. Util. Comm'n, 405 A.2d 1055 (Pa. Cmwlth. 1979).

In this case, the parties submitted a settlement of all issues. Commission policy promotes settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. Pa. Pub. Util. Comm’n., et al. v. City of Lancaster – Bureau of Water, Docket Nos. R-2010-2179103, *et al.*, (Opinion and Order entered July 14, 2011) (Lancaster). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *Id.*; *citing*, Warner v. GTE North, Inc., Docket No. C-00902815, (Opinion and Order entered April 1, 1996) (Warner); Pa. Pub. Util. Comm’n. v. CS Water and Sewer Associates, 74 Pa. PUC 767 (1991).

3) Terms of the Settlement

In the Settlement, the Parties agreed to resolve all outstanding issues and to seek Commission approval for the matters settled. The relevant terms of the Settlement are as follows - paragraph numbers are listed as they appear in the original Settlement filed with the Commission:

20. The Settlement consists of the following terms and conditions:

(a) Upon entry of the final order by the Commission approving this Settlement, the Company will be permitted to charge the rates for water service set forth in the proposed tariff supplement, attached hereto as **Appendix A** (“Settlement Rates”), to become effective upon one day’s notice. Instead of the \$923,668

(17.8%) increase requested in the filing, the Settlement Rates are designed to produce an increase of annual operating revenue of \$635,000 (12.4%), as shown in greater detail on the Proof of Revenues attached hereto as **Appendix B**.

(b) Columbia agrees that it will file a cost of service study in the next general rate case if the Company proposes full consolidation of its Marietta and Columbia Rate Districts² rates. The Company may seek consolidation of rates in any subsequent rate case; however, I&E, OCA and OSBA reserve the right to challenge any such proposed rates.

(c) Upon approval and implementation of the Settlement Rates, the Company will not file for another general rate increase for its Columbia or Marietta Rate Districts under Section 1308(d) of the Public Utility Code, 66 Pa. C.S. §101 *et seq.*, prior to thirty-three (33) months from the entry date of the Commission's final order approving this Settlement in full without revision. However, if a legislative body, a court, or an administrative agency, including the Commission, enacts or orders any fundamental changes in policy, regulations or statutes that directly and substantially affect the Company's cost of service, the Settlement shall not prevent the Company from filing a tariff or tariff supplement to the extent necessitated due to such action. In addition, this provision shall not preclude the Company from seeking extraordinary rate relief under Section 1308(e) of the Public Utility Code, 66 Pa. C.S. § 1308(e).

(d) The Parties agree that the Settlement is not premised upon inclusion in rate base of any Marietta Rate District PennVest-funded plant.

(e) The Parties agree that the Company will not make a claim in any future rate case to recover costs, claimed in this case as Franchises & Consents, related to the acquisitions of the Marietta Gravity Water Company and Mountville Water Company.

(f) Columbia will do annual reporting regarding the Company's present isolation valve exercising which includes critical valve exercising per the Commission's 2014 Management Audit at Docket No. D-2014-2405415. This reporting requirement terminates when the Company's next general rate case is decided by final Commission order.

² [internal footnote] The Columbia Rate District and the Marietta Rate District were formerly known as the Columbia Division and the Marietta Division, respectively.

The Settlement also is conditioned on the general terms found in most settlements submitted to the Commission. That is, the Settlement is conditioned upon approval of the terms and conditions without modification and parties may withdraw from the Settlement and proceed with litigation if the terms are modified. The Settlement is also made without any admission against, or prejudice to, any position that any party may adopt during any subsequent litigation of this or any other proceeding. The parties also, among other things, waived their right to file exceptions if the Settlement is adopted without modification. Settlement at ¶¶ 21 – 25.

4) Public Interest - Analysis of the Settlement

As noted above, it is the policy of the Commission to promote settlements. 52 Pa. Code §5.231(a). The benchmark for determining whether a settlement should be approved is whether the proposed terms and conditions are in the public interest. *See, Lancaster, Warner, supra*. In the Settlement, the parties noted that the Settlement is in the public interest because it was achieved after extensive investigation into Columbia's base rate filing, including formal and informal discovery and service of various rounds of written testimony. The parties also noted in the Settlement that the Settlement is in the public interest because approving the Settlement would avoid the time, expense and uncertainty for the parties and the Commission that would occur if the case was fully litigated. The parties further stated that the Settlement terms as outlined constitute a carefully crafted package representing reasonably negotiated compromises on the issues addressed therein and that the Settlement is consistent with Commission rules, regulations and procedures encouraging and promoting negotiated settlements. As discussed further below, the parties also attached to the Settlement separate Statements in Support of the Settlement, articulating their individual arguments and reasons why approving the Settlement without modification is appropriate and in the public interest. In those Statements, the parties submitted as follows:

a) Columbia's current revenue requirements (Settlement at ¶ 20(a))

As noted in the Columbia Statement in Support of Settlement, based on all of the testimony and exhibits submitted by Columbia and the other Parties, the Company submits that

approval of the Joint Petition without modification is appropriate and in the public interest. Columbia submits that the Joint Petition results in a base rate increase that will allow the Company to continue to provide safe and reliable water service to its customers. Columbia Statement in Support of Settlement at 15.

The need for additional revenue is set forth in detail in Columbia's Statement in Support of Settlement. Columbia has outlined all of its major investments in its plants and equipment for the years 2014, 2015, 2016 and 2017. Columbia also describes major investments to its plants and equipment that it expects to complete in the near future. Columbia notes that these investments are a reasonable and necessary cost of providing service to its customers and are therefore appropriately included in Columbia's base rate. Columbia Statement in Support of Settlement at pages 4 – 8.

Also in its Statement in Support of Settlement, Columbia explains that additional revenue is needed due to increased salaries and wages, pensions and other benefits costs, contractual service fees and rate case costs. Id. at 9. Columbia also provided support for its changes to utility plant in service, including accumulated depreciation, materials and supplies, cash working capital, net contributions in aid of construction, and accumulated deferred income taxes. Id. at 9.

In its Statement in Support of Settlement, I&E fully supports the negotiated level of overall distribution rate revenue increases as compared to Columbia's original proposal. I&E further notes that the overall revenue levels are within the levels advanced on the evidentiary record and reflect a full compromise of all revenue related issues raised by the parties. I&E Statement in Support of Settlement at 7 – 8. Accordingly, I&E states that the revenue increase in the Settlement is in the public interest. Id. at 7.

In its Statement in Support of Settlement, the OCA notes that the proposed revenue increase under the Settlement represents an amount which would be within the likely range of outcomes had the case been fully litigated. OCA Statement in Support of Settlement at 4. The OCA further notes that the proposed Settlement rates represent a reasonable compromise

while recognizing the need for gradualism in rate increases. Id. at 4. The OCA submits that the proposed increase, when accompanied by other important conditions contained in the Settlement, yields a result that is just and reasonable under the facts of this case and is therefore in the public interest. Id.

b) Rate structure and rate design (Settlement at Appendix A and B)

In its rate filing, Columbia sought to consolidate the rates of its Columbia and Marietta Rate Districts. Columbia notes that in the long term, unitized rates will strengthen the Company and allow its customers to enjoy lower rates through fewer rate cases and lower rate case expense. Columbia Statement in Support of Settlement at 11. Columbia also notes that Commission policy generally supports single tariff pricing and rate consolidation in rate cases. Id. While the Settlement in this case does not permit full rate consolidation, it takes a reasonable step towards unitization of rates between Columbia's Rate Districts. Id.

In its Statement in Support of Settlement, I&E notes that a main objective of Columbia's rate filing was to consolidate its Columbia and Marietta rate divisions. Those divisions have different customer charges for each meter size. I&E Statement in Support of Settlement at 8. Moreover, both divisions use declining block rates, but utilize different usage blocks and rates. Id. Also, the Columbia rate division currently includes both a Distribution System Improvement Charge (DSIC) and a PENNVEST surcharge. Id.

With regard to customer charges, I&E's position is that full rate consolidation would have a disparate and extreme impact on the Marietta customers and would violate the important rate making principles of gradualism and fairness. Id. at 9 – 10. The parties ultimately agreed to the customer charges set forth in Appendix A attached to the Settlement, and I&E fully supports the settled on customer charges as a full and fair compromise that provides stability to Columbia and protects all parties from volatility. Id. at 10. I&E notes that the settled on charges are within the levels advanced on the evidentiary record and reflect a full compromise of the concerns raised by the parties. Id.

With regard to a PENNVEST surcharge, Columbia had proposed to merge this charge with both of its rate districts, although the surcharge had previously been applied only to the Columbia Rate District. Id. at 14. I&E opposed Columbia's request, stating that the surcharge applies to pay the debt service on a loan used only to benefit the Columbia Rate District customers, and that applying the surcharge to the Marietta Rate District customers would be unjust because of that fact and because it would result in a large increase in the Marietta customers' bills. Id. at 14 – 15. The parties ultimately agreed that the PENNVEST surcharge would only apply to the Columbia Rate District customers, and I&E fully supports this settlement term, noting that the settled on surcharge is within the levels advanced on the evidentiary record and reflects a full compromise of the concerns raised by the parties. Id. at 15 – 16.

In its Statement in Support of Settlement, OCA notes its agreement that it would be in the public interest to not have the Marietta customers bear the cost of the PENNVEST surcharge, since the Marietta customers are served by wells and not by the PENNVEST financed Columbia water treatment plant. OCA Statement in Support of Settlement at 5 – 6.

In its Statement in Support of Settlement, the OSBA supports the rate design and revenue allocation contained in the Settlement. OSBA Statement in Support of Settlement at 4.

c) Cost of service study (Settlement at ¶ 20(b))

As part of the Settlement, Columbia has agreed to file a cost of service study in the next rate case if the Company proposes full consolidation of its Marietta and Columbia Rate Districts. I&E supports this part of the Settlement because it is reasonable and maintains the proper balance of the interests of the Company's ratepayers and the parties. I&E Statement in Support of Settlement at 17. The OCA also supports this part of the Settlement as being in the public interest because it will permit all parties to review any proposed rate consolidation in the context of the cost of service for each rate class. OCA Statement in Support of Settlement at 5. Columbia and the OSBA did not specifically address the cost of service study issue in their Statements in Support of Settlement.

d) PENNVEST financed Marietta Division plant (Settlement at ¶ 20(d))

As part of the Settlement, Columbia has agreed not to include a PENNVEST financed plant, purchased and installed by Marietta Gravity Water Company and recovered through the Marietta PENNVEST surcharge, in the base rate. I&E Statement in Support of Settlement at 17 – 18. I&E fully supports this portion of the Settlement as a full and fair compromise that is within the positions advanced on the evidentiary record and reflects a full compromise of the concerns raised by the parties and is therefore in the public interest. *Id.* at 20. The OCA supports this portion of the Settlement, since the OCA had originally objected to including the Marietta plant in the base rate, due to the fact that Columbia had already recovered its plant cost through the Marietta PENNVEST surcharge. OCA Statement in Support of Settlement at 8. Columbia and the OSBA did not specifically address this issue in their Statements in Support of Settlement.

e) Marietta and Mountville acquisition franchises (Settlement at ¶ 20(e))

Columbia originally sought to add a claim for \$349,361 to the Company's rate base, relating to acquisition costs for the Marietta and Mountville water systems. I&E Statement in Support of Settlement at 20. The parties ultimately agreed that Columbia would not make a claim in future proceedings to recover these costs, and I&E supports this portion of the Settlement as reflecting a full and fair compromise of the issues and being in the public interest because it maintains the proper balance of the interests of all the parties. *Id.* at 21 – 22. OCA also supports this portion of the Settlement as being in the public interest because Columbia did not provide support to show that the costs were recoverable from its ratepayers. OCA Statement in Support of Settlement at 7 – 8. Columbia and the OSBA did not specifically address this issue in their Statements in Support of Settlement.

f) Valve exercising and reporting (Settlement at ¶ 20(f))

During the course of this proceeding, the issue of valve exercising, or the routine operation of the valves, became a contested matter. The parties ultimately agreed that Columbia would submit annual reports to the Commission regarding the Company's present isolation valve exercising which includes critical valve exercising per the Commission's 2014 Management Audit at Docket No. 2014-2405415. This reporting requirement will terminate when the Company's next general rate case is decided by final Commission order. Columbia Statement in Support of Settlement at 15.

I&E supports the valve testing reporting, which was first brought up as a request by the OCA. I&E believes that the requirement represents a reasonable and fair compromise among the parties, maintains the proper balance of the interests of the ratepayers, and is therefore in the public interest. I&E Statement in Support of Settlement at 23.

The OCA submits that the annual reporting requirement should be adopted as being in the public interest. The OCA submits that the reporting requirement will allow Columbia a reasonable schedule for exercising its isolation valves in the future. OCA Statement in Support of Settlement at 6 – 7.

The OSBA did not specifically address the valve testing reporting requirements in its Statement in Support of Settlement.

g) Stay out / Avoiding continued costs of litigation (Settlement at ¶ 20(c))

As part of the Settlement, Columbia has agreed not to file another general rate case for at least 33 months from the entry date of the Commission's final order approving the Settlement without modification. Columbia Statement in Support of Settlement at 14.

The OCA notes that the stay out provision will provide some level of rate stability for Columbia's customers and will prevent rate increases in quick succession. OCA Statement in

Support of Settlement at 5. I&E notes that the stay out provision is reasonable, maintains the proper balance of the interests between Columbia and its customers and is therefore in the public interest. I&E Statement in Support of Settlement at 17. Columbia notes that the stay out provision will benefit its customers. Columbia Statement in Support of Settlement at 16. The OSBA did not specifically address this issue in its Statement in Support of Settlement.

The parties also note that the Settlement will avoid the continued litigation of this case, which will benefit Columbia's customers because those additional legal fees and costs will not be added to the Company's rate case and will therefore not be borne by Columbia's customers. The Settlement also benefits the Commission and the statutory advocates by avoiding further time, expense and cost spent on litigating this rate case. Columbia Statement in Support of Settlement at 16; I&E Statement in Support of Settlement at 24; OCA Statement in Support of Settlement at 8.

5) Disposition

Having reviewed the various filings, including the Joint Petition for Settlement and Statements in Support of Settlement, we conclude that the Settlement is in the public interest and should be adopted in its entirety without modification. The Settlement allows Columbia to raise additional revenue for operating expenses and infrastructural improvements while allowing the Company to earn a reasonable rate of return. Instead of the requested increase of \$923,668 (17.8%), Columbia will be allowed to increase its present revenues by \$635,000 (12.4%) per year. This amount constitutes a reasonable compromise and is in the public interest.

As an initial matter, we note that, in this case, the parties have reached what is referred to as a "black box" settlement where the settlement provides for an increase in the utility's revenues but does not indicate the specifics of how the parties calculated the increase. The Commission has permitted "black box" settlements as a means of promoting settlements in contentious base rate proceedings. Pa. Pub. Util. Comm'n v. Wellsboro Electric Co., Docket No. R-2010-2172662 (Order entered January 13, 2011); Pa. Pub. Util. Comm'n v. Citizens' Electric Co. of Lewisburg, Docket No. R-2010-2172665 (Order entered January 13, 2011). The

Commission has observed that determining a utility’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting expenses, depreciation, rate base, taxes and the utility’s cost of capital. Reaching an agreement among the parties on each component can be difficult and impractical. As a result of this complexity, the Commission supports the use of “black box” settlements. Pa. Pub. Util. Comm’n v. Peoples TWP LLC, Docket No. R-2013-2355886 (Opinion and Order entered December 19, 2013). As a result, we find that the submission of a black box settlement in this case is reasonable.

The Settlement is in the public interest because it ensures that Columbia’s ratepayers will continue to receive safe and reliable service at reasonable rates, while minimizing the rate impact against the Marietta rate class. A comparison of an average monthly water bill of a residential customer under current rates, the rates initially proposed by the Company, and under the Settlement Rates is shown below, based on 3,000 gallons per month:³

Columbia Rate District

<u>Current Rates</u>	<u>Proposed Rates</u>	<u>Settlement Rates</u>
\$36.66	\$39.50	\$39.81

Marietta Rate District

<u>Current Rates</u>	<u>Proposed Rates</u>	<u>Settlement Rates</u>
\$23.33	\$39.50	\$28.14

Under the Settlement, the rate impact to the Marietta customers is significantly lower than it would have been under the originally proposed rates. We also note that the Settlement establishes revenue allocation levels and customer charges that are well within the levels advanced on the evidentiary record by the parties and reflect a full compromise of all revenue allocation and customer charge issues raised by the parties. The Settlement also provides rate stability since Columbia has agreed to refrain from filing a further base rate case

³ For the Columbia Rate District, these monthly bill amounts include the PennVest surcharge for a customer with a 5/8” meter.

for a period of 33 months following final Commission approval of the Settlement. Each of these adjustments constitutes a reasonable compromise among the parties and is in the public interest.

The Settlement also addresses the issue of fairness in terms of the various PENNVEST charges and costs. Under the Settlement, PENNVEST charges and costs relating only to Columbia customers will remain with those customers, while PENNVEST charges and costs relating only to Marietta customers will remain with those customers. We find that this allocation of discrete customer charges is fair to both classes of customers, is reasonable, and is therefore in the public interest.

The Settlement also addresses the important issue of valve exercising and reporting. The OCA believed that Columbia should make annual reports of its valve exercising activities to the Commission, in order for the Company and the Commission to better identify any issues with valve function and possible valve maintenance and/or replacement. The Company agreed to make annual reports to the Commission in that regard, and we conclude that this portion of the Settlement represents a reasonable balance of the interests of the various parties, helps to ensure the continued provision of safe and reliable service to the Company's customers, and is therefore in the public interest.

We note, however, that this reporting requirement does not indicate when the reports will be submitted, what time period the reports will cover and who will be provided with a copy of the report. We do not see this as a reason to reject or modify the settlement but request the parties clarify these issues as part of the compliance phase of this proceeding.

We also note that the Settlement should be approved as being in the public interest because the Settlement will save the parties from expending substantial time and expense involved with further litigation. Although the parties exchanged substantial discovery and submitted several rounds of pre-served testimony, including oral rejoinder, additional costs would have included extensive hearings, briefs, exceptions and possible appeals. Avoiding such expenditures minimizes the costs that Columbia might ultimately pass on to the ratepayers, and

also conserves the resources of all other parties involved in these proceedings, and preserves Commission resources as well.

We also note that the Settlement is in the public interest and should be approved without modification because it resolves the complaints filed by various consumers who contested the original filing. As noted above, each of the complainants was provided a copy of the settlement and given the opportunity to object to it. No objections were received and therefore the complainants were deemed to not oppose the settlement. Therefore, these complaints will be closed as part of the ordering paragraphs below.

Finally, we note that the Settlement should be approved as being in the public interest because the parties have exchanged voluminous pre-served testimony and have engaged in extensive discovery and other litigation-related efforts in order to properly investigate and resolve the issues presented, much of which was admitted into the record via stipulation. These efforts demonstrate that the initial filings of the Company and the responses to the filings have been thoroughly vetted and considered by all concerned parties. These efforts also demonstrate that the parties are satisfied that there are no unresolved evidentiary issues at this point of the proceeding. As a result, we conclude that the Settlement is therefore in the public interest and should be approved without modification.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Columbia Water Company shall not place into effect the rates contained in Supplement No. 86 To Tariff - Water Pa. P.U.C. No. 7 which was submitted on June 27, 2017 at Docket Number R-2017-2598203.

2. That the Joint Petition for Settlement filed at Docket Numbers R-2017-2598203 and dated December 12, 2017 is approved in its entirety and without modification.

3. That the Columbia Water Company shall be permitted to file a tariff supplement incorporating the terms of the settlement and changes to its rates, rules and regulations as set forth in Appendix A to the Joint Petition for Settlement to become effective on at least one day's notice after entry of the Commission's order approving the settlement, which tariff supplement increases Columbia Water Company's rates so as to produce an increase in annual operating revenues of not more than \$635,000.

4. That Columbia Water Company in its compliance filing shall specify to whom and when the valve exercising reports referenced in the Joint Petition for Settlement are to be submitted and what time periods the reports will cover.

5. That upon acceptance and approval by the Commission of the tariff supplement filed by the Columbia Water Company consistent with this Order, this proceeding shall be marked closed.

6. That the Complaint filed by the Office of Consumer Advocate against the Columbia Water Company on July 19, 2017, at Docket Number C-2017-2614985, shall be deemed satisfied and marked closed.

7. That the Complaint filed by the Office of Small Business Advocate against the Columbia Water Company on July 19, 2017, at Docket Number C-2017-2615248, shall be deemed satisfied and marked closed.

8. That the Complaint filed by Donna Hess against the Columbia Water Company at Docket Number C-2017-2614724, is dismissed and marked closed.

9. That the Complaint filed by Vincent Collier III against the Columbia Water Company at Docket Number C-2017-2620842, is dismissed and marked closed.

10. That the Complaint filed by Sandra Shaub against the Columbia Water Company at Docket Number C-2017-2622123, is dismissed and marked closed.

11. That the Complaint filed by Joseph Kramer against the Columbia Water Company at Docket Number C-2017-2623109, is dismissed and marked closed.

Date: December 27, 2017

/s/
Joel H. Cheskis
Deputy Chief Administrative Law Judge

/s/
Andrew M. Calvelli
Administrative Law Judge